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HOUSE BILL 202

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Patricia A. Lundstrom

AN ACT

RELATING TO WATER; AMENDING SECTIONS OF THE NMSA 1978 TO
PROVIDE FOR WATER CONSERVATION IN SUBDIVISION REGULATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 3-19-6 NMSA 1978 (being Laws 1965,
Chapter 300, Section 14-18-6, as amended) is amended to read:

"3-19-6. SUBDIVISION REGULATIONS. --

A. The planning authority of a municipality shall
adopt regulations governing the subdivision of land within the
planning and platting jurisdiction of the municipality. The
subdivision regulations shall be approved by the governing body
before they become effective. The subdivision regulations may
provide for:

(1) the harmonious development of the
municipality and its environs;

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1 (2) the coordination of streets within the
2 subdivision with existing or planned streets or other features
3 of the master plan or official map of the municipality;

4 (3) adequate open space for traffic,
5 recreation, drainage, light and air; and

6 (4) the distribution of population and traffic
7 [~~which tend~~] that tends to create conditions favorable to the
8 health, safety, convenience, prosperity or general welfare of
9 the residents of the municipality.

10 B. Subdivision regulations may govern:

11 (1) the width of streets;
12 (2) the width, depth and arrangement of lots;
13 (3) land use, including natural drainage;
14 (4) other matters necessary to carry out the
15 purposes of the Municipal Code; and

16 (5) the extent and manner in which:
17 (a) streets are graded and improved; and
18 (b) water, sewer and other utility
19 facilities are installed as a condition precedent to the
20 approval of a plat.

21 C. Subdivision regulations shall provide for water
22 conservation measures that include:

23 (1) metering and accounting of water use of
24 private wells;

25 (2) drought-tolerant landscaping;

1 (3) prohibition of high-water-use landscape
2 planting; and

3 (4) water use efficiency requirements for
4 plumbing and architectural design components.

5 [~~C.~~] D. The subdivision regulations or the practice
6 of the planning commission may allow tentative approval of the
7 plat previous to the completion of improvements and the
8 installation of utility facilities, but such tentative approval
9 shall not be entered on a plat. In lieu of the completion of
10 improvements and the installation of utility facilities
11 previous to the final approval of a plat, the subdivision
12 regulations may provide for:

13 (1) assessment or other methods whereby the
14 municipality makes the improvements and installations at the
15 cost of the owner of property within the subdivision; [~~or~~]

16 (2) acceptance of a bond, in an amount and
17 with surety and conditions satisfactory to the planning
18 commission, securing to the municipality the actual
19 construction and installation of improvements and utility
20 facilities within a period of time specified by the planning
21 commission and expressed in the bond. A municipality may
22 enforce such a bond by all appropriate and legal remedies; or

23 (3) in lieu of a bond, [~~the municipality may~~
24 ~~enter into~~] an agreement [~~with~~] between the municipality and a
25 person seeking approval of a subdivision whereby the person

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1 seeking approval shall, within two years following final
2 approval of the plat, complete the improvements and the
3 installation of utility facilities provided for in the person's
4 application for subdivision approval, except that the agreement
5 set forth herein may provide that the person seeking approval
6 shall be permitted by the municipality to sell or otherwise
7 dispose of or improve any lot within the subdivision to which
8 improvements and utility facilities have been provided by the
9 person seeking approval at any time within the two-year period.
10 Any such agreement shall be recorded with the county clerk at
11 the time of filing [~~said~~] the plat.

12 [~~D-~~] E. The governing body or planning commission
13 of the municipality shall hold a public hearing on the adoption
14 of a subdivision regulation or an amendment to it. Notice of
15 the time and place of the public hearing shall be published
16 once at least fifteen days prior to the date of the public
17 hearing.

18 [~~E-~~] F. If the requirement or restriction does not
19 violate the zoning ordinance, the governing body or planning
20 commission of the municipality may agree with a person seeking
21 approval of a subdivision upon the use, height, area or bulk
22 requirement or restriction governing buildings and premises
23 within the subdivision. The requirement or restriction shall:

24 (1) accompany the plat before it is approved
25 and recorded;

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- 1 (2) have the force of law;
- 2 (3) be enforced; and
- 3 (4) be subject to amendment or repeal as the
- 4 provisions of the zoning ordinance and map are enforced,
- 5 amended or repealed. "

6 Section 2. Section 47-6-9 NMSA 1978 (being Laws 1973,
7 Chapter 348, Section 9, as amended) is amended to read:

8 "47-6-9. SUBDIVISION REGULATION-- COUNTY AUTHORITY. --

9 A. The board of county commissioners of each county
10 shall regulate subdivisions within the county's boundaries. In
11 regulating subdivisions, the board of county commissioners of
12 each county shall adopt regulations setting forth the county's
13 requirements for:

- 14 (1) preliminary and final subdivision plats,
15 including their content and format;
- 16 (2) quantifying the maximum annual water
17 requirements of subdivisions, including water for indoor and
18 outdoor domestic uses;
- 19 (3) assessing water availability to meet the
20 maximum annual water requirements of subdivisions;
- 21 (4) water conservation measures that include:
 - 22 (a) metering and accounting of water use
 - 23 of private wells;
 - 24 (b) drought-tolerant landscaping;
 - 25 (c) prohibition of high-water-use

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1 landscape planting; and

2 (d) water use efficiency requirements

3 for plumbing and architectural design components;

4 (5) water of an acceptable quality for human
5 consumption and for protecting the water supply from
6 contamination;

7 (6) liquid waste disposal;

8 (7) solid waste disposal;

9 (8) legal access to each parcel;

10 (9) sufficient and adequate roads to each
11 parcel, including ingress and egress for emergency vehicles;

12 (10) utility easements to each parcel;

13 (11) terrain management;

14 (12) phased development;

15 (13) protecting cultural properties,
16 archaeological sites and unmarked burials, as required by the
17 Cultural Properties Act;

18 (14) specific information to be contained in a
19 subdivider's disclosure statement in addition to that required
20 in Section 47-6-17 NMSA 1978;

21 (15) reasonable fees approximating the cost to
22 the county of determining compliance with the New Mexico
23 Subdivision Act and county subdivision regulations while
24 passing upon subdivision plats;

25 (16) a summary procedure for reviewing certain

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1 type-three and all type-five subdivisions as provided in
2 Section 47-6-11 NMSA 1978;

3 (17) recording all conveyances of parcels with
4 the county clerk;

5 (18) financial security to assure the
6 completion of all improvements that the subdivider proposes to
7 build or to maintain;

8 (19) fencing subdivided land, where
9 appropriate, in conformity with Section 77-16-1 NMSA 1978,
10 which places the duty on the purchaser, lessee or other person
11 acquiring an interest in the subdivided land to fence out
12 livestock; and

13 (20) any other matter relating to subdivisions
14 that the board of county commissioners feels is necessary to
15 promote health, safety or the general welfare.

16 B. Subsection A of this section does not preempt
17 the authority of any state agency to regulate or perform any
18 activity that it is required or authorized by law to perform.

19 C. The following counties shall adopt regulations
20 pursuant to this section on or before July 1, 1996:
21 Bernalillo, Dona Ana and Santa Fe.

22 D. All remaining counties shall adopt regulations
23 pursuant to this section on or before July 1, 1997.

24 E. Nothing in the New Mexico Subdivision Act shall
25 be construed to limit the authority of counties to adopt

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1 subdivision regulations with requirements that are more
2 stringent than the requirements set forth in the New Mexico
3 Subdivision Act, provided the county has adopted a
4 comprehensive plan in accordance with Section 3-21-5 NMSA 1978
5 and those regulations are consistent with [~~such~~] the plan. "

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